

BILL NO. S-73-05-26

SPECIAL ORDINANCE NO. S- 67-73

AN ORDINANCE approving an agreement with Bercot, Inc. for relocation of water main facilities on U.S. 30 Bypass.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The agreement approved April 27, 1973, between the City of Fort Wayne, by and through its Mayor and the Board of Public Works, and BERCOT, INC., for construction and installation of a water main as follows:

construct and install and furnish all necessary materials for the installation of 680<sup>1</sup>/<sub>2</sub> feet of 16 inch and 280<sup>1</sup>/<sub>2</sub> feet of 12 inch D.I. water main and its appurtenances, on the U.S. 30 By Pass, from the existing 16 inch main located approximately 430 feet east of the centerline of Industrial Road, westward a distance of 870<sup>1</sup>/<sub>2</sub> feet to the existing 24 inch water main on the west side of State Highway No. 3., and do everything required by the contract documents and this agreement.

for a total cost of \$20,546.00, \$9,999.50 paid by Utilities and the balance of \$10,546.50 to be paid by State Highway, all as more particularly set forth in said Agreement, which is on file in the Office of the Board of Public Works, and is by reference incorporated herein and made a part hereof, is hereby in all things ratified, confirmed and approved.

SECTION 2. This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

  
Councilman

APPROVED AS TO FORM  
AND LEGALITY

  
CITY ATTORNEY

Read the first time in full and on motion by Stier, seconded by Hinga, and duly adopted, read the second time by title and referred to the Committee on Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on the \_\_\_\_\_ day of \_\_\_\_\_, 1973, at \_\_\_\_\_ o'clock P.M., E.S.T.

Date: 5/22/73

Charles M. Wistman  
CITY CLERK

Read the third time in full and on motion by Stier, seconded by Hinga, and duly adopted, placed on its passage. Passed (~~Left~~) by the following vote:

	AYES <u>9</u>	NAYS <u>0</u>	ABSTAINED _____	ABSENT _____ to-wit:
BURNS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
KRAUS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MOSES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NUCKOLS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHMIDT, D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHMIDT, V.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
STIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TALARICO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATE: 6/12/73

Charles M. Wistman  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~Zoning Map~~) (~~General~~) (~~Annexation~~) (~~Special~~) (~~Appropriation~~) Ordinance (Resolution) No. 8-67-73 on the 12th day of June, 1973.

ATTEST: (SEAL)

Charles M. Wistman  
CITY CLERK

Winfield C. Wingo Jr.  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day of June, 1973, at the hour of 10 o'clock A. M., E.S.T.

Charles M. Wistman  
CITY CLERK

Approved and signed by me this 13th day of June, 1973, at the hour of 3:00 o'clock P. M., E.S.T.

John A. Seaton  
MAYOR

Bill No. S-73-05-26

REPORT OF THE COMMITTEE ON PUBLIC WORKS

We, your Committee on Public Works to whom was referred an Ordinance  
approving an agreement with Bercot, Inc. for relocation of  
water main facilities on U.S. 30 Bypass

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance Do PASS.

James S. Stier - Chairman

Eugene Kraus, Jr. - Vice-Chairman

Samuel J. Talarico

William T. Hinga

Vivian G. Schmidt

James S. Stier  
Eugene Kraus, Jr.  
Samuel J. Talarico  
William T. Hinga  
Vivian G. Schmidt

6-12-73  
MADE A MATTER OF RECORD  
DATE \_\_\_\_\_ CHARLES W. WESTERMAN, CITY CLERK



# THE CITY OF FORT WAYNE

board of public works

April 24, 1973

The Common Council  
City of Fort Wayne

Attention: Mr. Paul M. Burns, City Utilities Committee

Gentlemen:

Due to the widening of U.S. 30 Bypass by the State Highway, it is necessary for the Utilities to construct new and to relocate existing water main facilities. On April 10, the Council ratified a contract (S-42-73) for Hipskind Asphalt Corporation to do the new construction.

Today, bids were received for relocation of water mains. Two bids were recieved:

Bercot, Inc.	\$20,296.00	<sup>20,546.00</sup> — BIDD WAS NOT INCLUDED
Hipskind Asphalt	\$26,805.00	

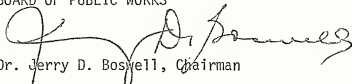
Award has been made to Bercot, Inc. for \$20,296.00. Of this amount, the Utilities will be paying \$9,749.50 with the State Highway assuming the balance of \$10,546.50.

The Board has been approached by the State Highway and their construction contractor, Hipskind Asphalt Corporation, to request a prior approval of the Council for Utility expenditure of \$9,749.50 so the improvement may proceed without delay.

The contract documents will be forwarded for an Ordinance to be presented in Council May 8, 1973.

Very truly yours,

BOARD OF PUBLIC WORKS

  
Dr. Jerry D. Boswell, Chairman

JDB/ss

APPROVED:

  
MEMBERS OF THE COMMON COUNCIL

FOR CONSTRUCTION OF U. S. 30 BY PASS MAIN RELOCATION

CONTRACT NO. 7303

THIS AGREEMENT, made this 27th day of April 1973, by and between Bercot Incorporated, herein called the CONTRACTOR, and City of Fort Wayne, an Indiana Municipal Corporation, herein called OWNER,

WITNESSETH, that the CONTRACTOR and the OWNER for the considerations hereinafter named, agree as follows:

ARTICLE 1. SCOPE OF WORK

CONTRACTOR shall construct and install and furnish all necessary materials for the installation of 680 + feet of 16 inch and 280 + feet of 12 inch D. I. water main and its appurtenances, on the U. S. 30 By Pass, from the existing 16 inch main located approximately 430 feet east of the centerline of Industrial Road, westward a distance of 870 + feet to the existing 24 inch water main on the west side of State Highway No. 3., and do everything required by the contract documents and this agreement.

ARTICLE 2. TIME OF COMPLETION

The work to be performed under this Contract shall be commenced immediately upon notice to proceed and the work shall be completed within thirty (30) consecutive calendar days after receipt of material.

ARTICLE 3. THE CONTRACT SUM

The OWNER shall pay the CONTRACTOR for the performance of the CONTRACT the sum of \$20,546.00. In event the amount of work is increased or decreased by the OWNER, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal.

ARTICLE 4. PROGRESS PAYMENTS

The OWNER shall make payments on account of the contract as provided therein, as follows:

On or about the 15th day of each month, ninety percent (90%) of the value of the work performed up to the first day of that month (based on the contract prices of labor and materials incorporated in the work) and as estimated by the Contractor and approved or revised by the Engineering Department of the OWNER, less the aggregate of previous payments.

ARTICLE 5. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and the contract is fully performed.

Upon receipt of written notice that the work is ready for final inspection and acceptance, the Engineering Department of the OWNER shall promptly make such inspection, and when it finds the work acceptable under the contract and the contract fully performed, it shall promptly issue a final certificate stating that the work provided for in this contract has been completed and is accepted, and the entire balance of the contract sum shall be due and payable to the CONTRACTOR.

At the time said payment is due and payable, the CONTRACTOR shall furnish the OWNER, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid.

ARTICLE 6. GUARANTEE OF MATERIALS AND WORKMANSHIP

CONTRACTOR guarantees all materials and work against defects for a period of one year after the date of the acceptance of the work.

ARTICLE 7. THE CONTRACT DOCUMENTS

The Instructions to Bidders, Specifications, Contractor's Proposal, Bond and this Agreement form the Contract, and they are as fully a part of the Contract as if hereto attached or herein repeated. The following is an enumeration of these documents:

- A. Instructions to Bidders for Contract No. 7303.
- B. Contractor's Proposal dated April 24th, 1973.
- C. Contractor's Bond.
- D. Supplemental Specifications for U. S. 30 By Pass Main RELOCATION and Detailed Specifications and Conditions for the installation of Transmission and Distribution Mains, Contract No. 7303, and Fort Wayne Water Utility, Engineering Department Drawing No. Y - 10453 Sheet 1 of 1.
- E. All materials shall be in accordance with Fort Wayne Water Utility, Engineering Department, Water Main Materials Standards, dated June 6, 1963, except as modified in the Supplemental Specifications.

ARTICLE 8. ADJUSTMENT OF DISPUTES

All questions or controversies which may arise between the CONTRACTOR and the OWNER under the provisions of this Contract shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Utility of the OWNER, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 9. INDEMNITY

CONTRACTOR shall indemnify the OWNER against any claim or loss incurred or arising out of the performance of the work as provided herein.

ARTICLE 10. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the OWNER by its Mayor and Board of Public Works, shall not be binding upon the OWNER unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within sixty (60) days after the date hereof, then this contract shall be and become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

BERCO LTD.

BY:   
Roy Green,

CITY OF FORT WAYNE, INDIANA

By *Ivan A. Lebamoff*  
Ivan A. Lebamoff, its mayor

BOARD OF PUBLIC WORKS

*Jerry D. Boswell*  
Jerry D. Boswell, Chairman

*Ronald L. Bonar*  
Ronald L. Bonar

*William G. Williams*  
William G. Williams

ATTEST:

*Edna I. Smith*  
Edna I. Smith, Clerk

APPROVED AS TO FORM AND LEGALITY:

*David B. Keller*  
David B. Keller  
City Attorney

APPROVED By The Common Council Of The City Of Fort Wayne On \_\_\_\_\_,  
1973, Special Ordinance No. \_\_\_\_\_.

CITY OF FORT WAYNE, INDIANA

IMPROVEMENT TO CITY UTILITIES - WATER WORKS DIVISION

PERFORMANCE AND GUARANTY BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, \_\_\_\_\_  
\_\_\_\_\_ Bercot Incorporated \_\_\_\_\_ of \_\_\_\_\_ Fort Wayne, Indiana \_\_\_\_\_  
as principal, and \_\_\_\_\_ Safeco Insurance Company of America, Seattle, Wash. \_\_\_\_\_  
as surety, are held and firmly bound unto the State of Indiana, for the benefit  
of the City of Fort Wayne, Indiana, in the penal sum of \_\_\_\_\_ Twenty Thousand, \_\_\_\_\_  
\_\_\_\_\_ Five hundred, Forty six and no/100 \_\_\_\_\_ Dollars (\$ 20,546.00 \_\_\_\_\_) for the  
Payment of which we hereby jointly and severally bind ourselves, our heirs,  
executors, administrators, successors and assigns.

DATED this \_\_\_\_\_ 27th \_\_\_\_\_ day of \_\_\_\_\_ April \_\_\_\_\_, 1973 \_\_\_\_\_.

THE condition of this obligation is such that whereas the above named principal  
did, on the \_\_\_\_\_ 27th day of \_\_\_\_\_ April \_\_\_\_\_, 1973 \_\_\_\_\_, enter into a contract with  
the City of Fort Wayne, Indiana, by the terms of which said principal agreed to  
perform everything required to be performed and to provide and furnish at his  
sole cost and expense all the labor, tools, materials, expendable equipment,  
transportation services, bonds and insurance required to perform and to complete  
in a workmanlike manner all the work required in the above mentioned contract  
for the sum of \_\_\_\_\_ Twenty Thousand Five Hundred Forty Six and No/100 \_\_\_\_\_  
Dollars, (\$ 20,546.00 \_\_\_\_\_) and to remove and replace any defective or  
unsuitable materials, equipment or structure at the expense of said principal  
which may be apparent or may develop from inferior workmanship or material  
within one (1) year from the date of final acceptance of the above described  
work, which contract is made a part of this bond the same as set forth herein:  
Now, if said principal shall well and faithfully do and perform the things  
agreed by him, them, or it, to be done and performed according to the terms  
of said contract, and shall pay all lawful claims or indebtedness which may  
accrue, by operation of law and otherwise, to any persons, firm or corporation  
on account of any labor or service performed or material furnished or service  
rendered, in the carrying forward, performing, and completing of said contract;  
we agreeing and assenting that this undertaking directly inures to the benefit  
of subcontractors, laborers, materialmen and those performing service on  
account of or directly in connection with the completion of said contract,  
as well as for the obligee herein; then this obligation shall be void, other-  
wise the same shall remain in full force and effect; and

IT IS HEREBY EXPRESSLY UNDERSTOOD AND AGREED, and made a condition hereof,  
that any judgment rendered against the City of Fort Wayne, as aforesaid, in  
any suits for damage for injury to real or personal property, or for any  
injury, sustained by any person growing out of any act or doing of said  
contractor, or its agents, employees or workmen in the premises, and also that  
any judgment of any court or award of any Board of Arbitrators or of the State  
Industrial Board of the State of Indiana rendered against the City of Fort  
Wayne in any suit or claim arising under said Workmen's Compensations Acts,  
of the State of Indiana, now in force, relating to compensation for accidental



injuries or death suffered by his employees or the employees of any subcontractor or subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said contractor, shall be conclusive against each and all parties to this obligation, as to amount, liability and all other things pertaining thereto.

Said surety for value received hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same, shall in any wise affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications. No change, modification, omission, or addition in and to the terms or conditions of said contract, plans, specifications, drawings, or profile, or any irregularity or defect in said contract or in the proceedings preliminary to the letting and awarding thereof shall in any way effect or operate to release or discharge said surety and the provisions and conditions of Chapter 258 of the Acts of the General Assembly of Indiana, of 1933, shall be, operate as, and become a part of the terms of this bond and said contract the same as if incorporated herein.

IN WITNESS WHEREOF, we have this 27th day of April, 1973, affixed our signatures and corporate seals to three (3) executed original copies of this Agreement.

BERCOT, INC.

PRINCIPAL

By: 

AUTHORIZED AGENT

SAFECO INSURANCE COMPANY OF AMERICA

SURETY

By: 

Attorney-in-fact  
H. Stanley Huff, Jr.



POWER OF ATTORNEY

No. 2388

KNOW ALL MEN BY THESE PRESENTS:

That General Insurance Company of America and Safeco Insurance Company of America, each a Washington corporation, does each hereby appoint

-----H. STANLEY HUFF, JR.; DONALD F. CAMPBELL, Fort Wayne, Indiana-----

its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business; and to bind the respective company thereby.

IN WITNESS WHEREOF, General Insurance Company of America and Safeco Insurance Company of America have each executed and attested these presents

this 3 day of August, 19 72

*W. O. Hammersla*  
W. O. HAMMERSLA, SECRETARY

*Gordon H. Sweeney*  
GORDON H. SWEENEY, PRESIDENT

CERTIFICATE

Extract from Article VI, Section 12, of the By-Laws of General Insurance Company of America  
and of SAFECO Insurance Company of America:

"Article VI, Section 12, -- FIDELITY AND SURETY BONDS . . . the President, any Vice President, and the Secretary shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business . . . On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

Extract from a Resolution of the Board of Directors of General Insurance Company of America and  
of SAFECO Insurance Company of America adopted July 28, 1970:

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article VI, Section 12 of the By-Laws, and
  - (ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
  - (iii) Certifying that said power-of-attorney appointment is in full force and effect,
- the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Wm. Hammersla, Vice President and Secretary of General Insurance Company of America and of SAFECO Insurance Company of America, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power-of-Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power-of-Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of each corporation

this 27th day of April, 19 73



*W. O. Hammersla*  
W. O. HAMMERSLA, SECRETARY

## DIGEST SHEET

d-73-05-26

TITLE OF ORDINANCE Bercot Agreement for Water Main U.S. 30 Bypass Contract #7303DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE This contract received Council's prior approval at  
the April 24, 1973 meeting. We have submitted it in order to obtain an Ordinance  
Number and enter approval in Council Proceedings.

We wish to note that contract is \$250.00 higher than prior approval due to  
contractor's neglect to include bonding costs. (Copy of prior approval attached)

EFFECT OF PASSAGE See Prior Approval Letter

EFFECT OF NON-PASSAGE See Prior Approval Letter

MONEY INVOLVED (Direct Costs, Expenditures, Savings)

Cost of \$20,546.00 to Water Utility.

ASSIGNED TO COMMITTEE (I.N.)

Public Works - WCM

# ORDINANCE CHECK-OFF SHEET

## INFORMATION REGARDING ORDINANCE

## CONTENTS OF ORDINANCE

BILL NO.	<i>S-73-05-26.</i>
ORDINANCE NO.	
REGULAR SESSION	<i>5-22-73</i>
SPECIAL SESSION	
APPROVED AS TO FORM AND LEGALITY	<i>Yes</i>
BILL WRITTEN BY	<i>Ed. of Public Works.</i>
DATE INTRODUCED	<i>5-22-73</i>
REFERRED TO SAID STANDING COMMITTEE	<i>Public Works.</i>
REFERRED TO CITY PLAN	
LEGAL PUBLIC HEARING	
LEGAL PUBLICATION	
JOINT HEARING	
DEPARTMENT HEARING	
HOLD FILE	
<input checked="" type="checkbox"/> PASS	<i>6-12-73</i>
DO NOT PASS	
WITHDRAWN	
SUSPENSION OF RULES	
<input checked="" type="checkbox"/> PRIOR APPROVAL	<i>April 24, 1973</i>
ORDINANCE TAKEN OUT OF OFFICE	
OTHER INSTRUCTIONS REGARDING ORDINANCE	
CORRECTIONS MADE TO ORDINANCE	
PEOPLE SPEAKING FOR ORDINANCE	
PEOPLE SPEAKING AGAINST ORDINANCE	

<input checked="" type="checkbox"/>	COMMITTEE SHEET
<input checked="" type="checkbox"/>	VOTE SHEET
	PURCHASE ORDERS
	BIDS
	ORDERS, BIDS OR OTHER PAPERS TAKEN OUT AND BY WHOM
	LETTER REQUESTING ORDINANCE DRAWN UP BY CITY ATTORNEY
	COMMUNICATIONS FROM <i>Prior approval letter</i>
	ZONING MAPS
	<i>Agreement - Contract # 7305</i>
	ABSTRACTS
	<i>Performance &amp; Guaranty</i>
	TITLES <i>Improvement</i>
	PRIOR APPROVAL LETTER

*Direct Repub.*

### COUNCILMAN'S VOTE

	YES	NAYS	ABSENT
BURNS	<input checked="" type="checkbox"/>		
HINGA	<input checked="" type="checkbox"/>		
KRAUS	<input checked="" type="checkbox"/>		
MOSES	<input checked="" type="checkbox"/>		
NUCKOLS	<input checked="" type="checkbox"/>		
D. SCHMIDT	<input checked="" type="checkbox"/>		
V. SCHMIDT	<input checked="" type="checkbox"/>		
STIER	<input checked="" type="checkbox"/>		
TALARICO	<input checked="" type="checkbox"/>		

COMMENTS: